UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Miller

DATE: 6-5-74

FROM : Legal Counsel

SUBJECT: DEPARTMENT OF JUSTICE POLICY FOR RELEASE OF FBI INVESTIGATORY FILES MORE THAN 15 YEAR OLD (DEPARTMENTAL ORDER 528-73)

My memorandum to you of 5-15-74 captioned, "Meeting with James A. Wilderotter, Associate Deputy Attorney General, Re: Departmental Order 528-73," reported the results of a meeting between Mr. Wilderotter and representatives of this Bureau concerning the Freedom of Information Act (FOIA) and specifically, Departmental Order 528-73. Mr. Wilderotter was briefed on the difficulties encountered by the FBI in attempting to implement the provisions of this Order. He appeared to be sympathetic towards our position and suggested that we prepare a "White Paper" setting forth these difficulties and reasons why the Attorney General should rescind this Order.

Attached is a "White Paper" prepared along those lines. We are cognizant of the fact that it would be unwise for the Attorney General to rescind this Order while H. R. 12471 and S. 2543 are currently pending. As will be recalled, S. 2543, with amendments by Senators Philip A. Hart and Edmund S. Muskie, was passed by the Senate on 5-30-74. However, from observations we have received from Administration representatives, there is a good chance President Nixon will now veto this bill. Consequently, any action on the part of the Attorney General at this time could be counterproductive. However, the suggestion is made to consider rescinding this Order once this legislation has been resolved.

62-109060

RECOMMENDATION:

That the attached memorandum be sent to Mr. Wilderotter.

Enclosure — Sent 6-10-74

1 - Mr. Cleveland - Enclosure
1 - Mr. Gebhardt - Enclosure
1 - Mr. Marshall - Enclosure
1 - Mr. McDermott - Enclosure
Attention: Mr. Bowers
1 - Mr. Thompson - Enclosure
1 - Mr. Walsh - Enclosure
1 - Mr. Wannall - Enclosure
1 - Mr. Mintz
JCF:law (11)

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